

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

LEROY CARHART, M.D.,)	
WILLIAM G. FITZHUGH, M.D.,)	4:03CV3385
WILLIAM H. KNORR, M.D., and)	
JILL L. VIBHAKAR, M.D.,)	
)	MEMORANDUM
Plaintiffs,)	AND ORDER
)	
v.)	
)	
JOHN ASHCROFT, in his official capacity)	
as Attorney General of the United States,)	
)	
Defendant.)	

The plaintiffs have filed a Motion to Exclude Evidence Regarding Fetal Pain and Regarding “Fetal and Ethical Considerations” (filing 101). Because the plaintiffs challenge the “partial-birth abortion” ban as it applies to both pre-viability and post-viability “partial birth abortions,” and because questions of fetal pain may play a legitimate part in the regulation of post-viability¹ abortions, the plaintiffs’ motion shall be denied.

IT IS ORDERED that the plaintiffs’ Motion to Exclude Evidence Regarding Fetal Pain and Regarding “Fetal and Ethical Considerations” (filing 101) is denied.

DATED this 11th day of March, 2004.

BY THE COURT:
s/Richard G. Kopf
United States District Judge

¹While only marginally so, questions of fetal pain are also probably relevant to the question of banning “partial-birth abortions” prior to viability.